

रजिस्टर्ड नं० पी० १७



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, १६ सितम्बर, १९६७/२८ भाद्रपद, १८८६

GOVERNMENT OF HIMACHAL PRADESH

ELECTION DEPARTMENT

NOTIFICATION

Simla-2, the 29th August, 1967

No. 6-46/67-Elec.—The following Notification of Election Commission, India, dated the 3rd August, 1967 (Savana 12, 1889, Saka) is published:—

No. 82/8 of 67/HP/67.—In pursuance of section 111 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 11th July, 1967 by the Himachal Bench of the Delhi High Court in Election Petition No. 8 of 1967.

IN THE DELHI HIGH COURT, HIMACHAL BENCH AT SIMLA

C.O.P. (Election Petition No. 8 of 1967).

Shri Beli Ram Bhalaik son of Shri Mansukh, caste Rajput, resident of village Pahli, Post Office Bhutti, Tehsil Theog, District Mahasu, Himachal Pradesh .. *Petitioner.*

Versus

Shri Jai Behari Lal Khachi son of Shri Hira Nand Khachi, resident of village Ghumana, Tehsil Theog, District Mahasu, Himachal Pradesh at present resident, The Mall, Simla .. *Respondent*
(Returned candidate).

In the matter of:—

Election Petition under section 80-83 read with section 100 and 123 of the Representation of People Act, 1951, challenging the election of the Respondent as Member of the Himachal Pradesh Legislative Assembly from No. 6-Theog constituency and for declaring the election as void and for such other ancilliary reliefs and orders as the Hon'ble Court deem fit.

Copy of order passed by Mr. Justice Hardayal Hardy in the C.O.P. on July 11, 1967.

Present: Shri M. R. Gupta, advocate for the petitioner. Shri Chhabil Dass, advocate for the respondent.

On 24th May, 1967, learned counsel for the petitioner made a statement before me that he had been instructed by the petitioner to withdraw the election petition filed by him and he, therefore, sought leave to withdraw the same. By my order he, therefore, sought leave to withdraw the same. By my order of that date, I directed the petitioner to file a proper application and adjourned the case for further proceedings to 2nd June, 1967. On that day a written application duly signed by the petitioner and his advocate was filed in court upon which a notice of the hearing of the petition was ordered to be issued to the respondent for 11th July, 1967. The notice of withdrawal of the petition was also ordered to be published in Himachal Rajpatra. A copy of the Rajpatra Himachal Pradesh dated 24th June, 1967 containing the aforesaid notice is now on the record. In spite of publication of the aforesaid notice no other person who could have been a petitioner has applied to be substituted as petitioner in place of the present petitioner.

The petitioner alleged that he is pre-occupied with looking after his orchards and lands situated in Rampur tehsil and Kumarsain sub-tehsil which places are situated at a distance of 70 to 60 miles respectively from Simla. He states that it is not possible for him to bring all the witnesses from Theog constituency to Simla nor is it possible for him to be personally present on each date of hearing. He further states that he is no longer interested in contesting the election again even if the election of the respondent is declared void. He asserts that the application has not been induced by any bargain or consideration.

I am satisfied that the application has not been induced by any bargain or consideration and, therefore, there is no impediment in the way of its being allowed.

Learned counsel for the respondent who is present in Court-to-day has, however, pressed for costs being awarded to him as according to him the election petition filed by the petitioner was wholly frivolous and is being withdrawn by the petitioner because the allegations made by him were utterly unsustainable. I, therefore, allow the petition to be withdrawn and order that the petitioner shall pay costs which may have been incurred by the respondent heretofore. I further direct that the order withdrawing the petition be reported to the Election Commission as required by section 111 of the Representation of the People Act, 1951.

After deducting the respondent's costs the balance of the amount deposited by the petitioner as security for the costs of the respondent be refunded to him.

Dated July 11, 1967.

Sd/- (Hardayal Hardy, J.).

By order,
K. S. RAJAGOPALAN,
Secretary to the Election Commission, India.

D. R. DHAMIJA,
*Chief Electoral Officer and Secretary,
to the Himachal Pradesh Government.*

